

STATE PERSONNEL BOARD CALENDAR



OCTOBER 18, 2005

SACRAMENTO, CALIFORNIA

State of California

Memorandum

DATE: **October 7, 2005**

TO: ALL INTERESTED PARTIES

FROM: **STATE PERSONNEL BOARD** – Executive Division

SUBJECT: Notice and Agenda for the **October 18, 2005**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on October 18, 2005, at the offices of the State Personnel Board, located at 801 Capitol Mall, Room 150, Sacramento, California, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the October 18, 2005, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 22, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.



Pui Fong
Secretariat's Office

Attachment



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street²
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

MID MONTH MEETING – OCTOBER 18, 2005

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

MID MONTH MEETING AGENDA³

OCTOBER 18, 2005
9:00 a.m. – 10:15 p.m.
(or upon completion of business)

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND ARE SUBJECT TO CHANGE

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. – 9:30 a.m.)

1. **ROLL CALL**
2. **REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**
3. **REPORT OF THE CHIEF COUNSEL – Elise Rose**
4. **NEW BUSINESS**

Items may be raised by Board Members for scheduling and discussion for future meetings.

5. **REPORT ON LEGISLATION – Sherry Hicks**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(9:30 a.m. – 10:15 a.m.)

6. **DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

³ The Agenda for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

7. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,
United States District Court, Northern District of California.

8. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

9. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:15 a.m. – onwards)

10. **DISCUSSION OF COMING BOARD MEETING SCHEDULE OF NOVEMBER 1-2, 2005, IN SAN DIEGO, CALIFORNIA**

BOARD ACTIONS:

11. **ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF SEPTEMBER 20, 2005**
12. **EVIDENTIARY CASES** - (See Case Listings on Page 9-14)
13. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION** - (See Agenda Page 22-23)
14. **NON-EVIDENTIARY CASES** - (See Case Listings on Page 14-19)
15. **NON-HEARING CALENDAR**

Proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

NONE

16. **STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

A. CALIFORNIA STATE TEACHERS RETIREMENT SYSTEM (CALSTRS)
requests to update the current alternate range criteria broadening the experience required to move through the ranges from “public pension fund” experience to “equivalent analytical experience”.

17. **CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and

Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

DEPUTY CHIEF, BUREAU OF AUTOMOTIVE REPAIR

The Department of Consumer Affairs proposes to allocate the above position to the CEA category. The Deputy Chief, Bureau of Automotive Repairs is responsible for assuring the efficient daily operation of the organization and the delivery of program services to the consumers and licensees of the state of California.

DIRECTOR, NON-TAX DEBT COLLECTION BUREAU

The Department of Franchise Tax Board proposes to allocate the above position to the CEA category. The Director, Non-Tax Debt Collection Bureau is responsible for the collection of obligations for other state, county, and local governmental agencies.

CHIEF, DIVISION OF PLAN SURVEYS

The Department of Managed Health Care proposes to allocate the above position to the CEA category. The Chief, Division of Plan Surveys is responsible for conducting on-site evaluations of all licensed health plans and issuing reports to the public concerning plan performance in the critical areas of health care accessibility, utilization management, health care quality management, and member grievances/appeals.

DEPUTY DIRECTOR, ENTERPRISE ARCHITECTURE

The Legislative Counsel Bureau proposes to allocate the above position to the CEA category. The Deputy Director, Enterprise Architecture is responsible managing a group of enterprise architects to run the Enterprise Architect Program.

DEPUTY DIRECTOR, ENTERPRISE PROCESS CENTER

The Legislative Counsel Bureau proposes to allocate the above position to the CEA category. The Deputy Director, Enterprise Process Center is responsible for the enterprise standards and processes, quality control, and project management.

**DEPUTY DIRECTOR, LEGAL AND OTHER PUBLIC OFFICES
DIVISION**

The Legislative Counsel Bureau proposes to allocate the above position to the CEA category. The Deputy Director, Legal and Other Public Offices Division under the Customer Services Branch is responsible for IT services to support the business of the Legal Division and other public office customers of the LDC.

**CHIEF OF COMMUNICATIONS, OFFICE OF LEGISLATION AND
COMMUNICATIONS**

The Department of Developmental Services proposes to allocate the above position to the CEA category. The Chief of Communications is responsible for all aspects of media relations and public relations for the Department of Developmental Services.

**CHIEF OF LEGISLATION, OFFICE OF LEGISLATION AND
COMMUNICATIONS**

The Department of Developmental Services proposes to allocate the above position to the CEA category. The Chief of Legislation is responsible for developing broad policy and political strategies for the Department's legislative agenda.

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS**

SENIOR ALTERNATIVE ENERGY ADVISOR

The California Environmental Protection Agency's proposal to establish the above position to the CEA category has been approved effective September 16, 2005.

DEPUTY DIRECTOR, COMPLIANCE DIVISION

The California Gambling Control Commission's proposal to establish the above position to the CEA category has been approved effective September 16, 2005, for a period of twenty-four months and is contingent upon abolishment of the Chief Deputy Director position.

PRINCIPAL DEPUTY LEGISLATIVE COUNSEL II

The Legislative Counsel Bureau's proposal to establish the above position to the CEA category has been approved effective September 20, 2005.

ASSISTANT SECRETARY, CLIMATE CHANGE ACTIVITIES

The California Environmental Protection Agency's proposal to establish the above position to the CEA category has been approved effective September 22, 2005.

18. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

19. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

20. BOARD ACTIONS ON SUBMITTED ITEMS - (See Agenda - Page 20-21)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

A D J O U R N M E N T

12. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) **PATRICK BARBER, CASE NO. 04-0174PA**

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Proposed decision adopted November 3, 2004
modifying dismissal to 45 calendar days suspension

Transcript prepared

Pending oral argument June 7, 2005, Sacramento

Oral argument continued

Oral argument heard July 13, 2005, Sacramento

Case ready for decision by FULL Board

(2) **JON CHASE, CASE NO. 04-0392A**

Appeal from 30 working days suspension

Classification: Associate Management Auditor

Department: Employment Development Department

Proposed decision rejected April 19, 2005

Transcript prepared

Pending oral argument July 13, 2005, Sacramento

Oral argument continued

Oral argument heard August 9, 2005, Sacramento

Case ready for decision by FULL Board

(4) **JOSEPH MARTINEZ, CASE NO. 04- 2690A**

Appeal from dismissal

Classification: Hospital Police Officer

Department: Department of Mental Health

Proposed decision rejected May 17, 2005

Transcript prepared

Oral argument heard August 30, 2005, Los Angeles

Case ready for decision by FULL Board

- (6) **ANDREW RUIZ, CASE NO. 04-2391A**
Appeal from dismissal
Classification: Correctional Lieutenant
Department: Department of Corrections

Proposed decision rejected June 7, 2005
Transcript prepared
Oral argument heard August 30, 2005, Los Angeles
Case ready for decision by FULL Board

- (7) **MARK SAMORA, CASE NO. 04-3041A**
Appeal from dismissal
Classification: Instructional Technology Consultant
Department: California State University, Los Angeles

Proposed decision rejected July 13, 2005
Transcript prepared
Oral argument heard October 3, 2005, Sacramento
Case ready for decision by FULL Board

B. CASES PENDING

ORAL ARGUMENTS

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

This case has been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

- (1) MARCUS COTTON, CASE NO. 05-0880**
Appeal from dismissal
Classification: Senior Medical Technical Assistant
Department: Department of Corrections and Rehabilitation
- (2) STAN HESTER, CASE NO. 05-2074E**
Appeal from discrimination complaint
Classification: Vocational Instructor, Building Maintenance
Department: Department of Corrections and Rehabilitation
- (3) GLEN D. HOWE, CASE NO. 05-0472**
Appeal from ten percent reduction in salary for six months
Classification: Tree Maintenance Worker, Caltrans
Department: Department of Transportation
- (4) BETTY KING, CASE NO. 05-1161**
Appeal from dismissal
Classification: Registered Nurse (Correctional Facility)
Department: Department of Corrections and Rehabilitation
- (5) SEBASTIAN PEREZ, CASE NO. 05-1325**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (6) RICHARD WILLIAMS, CASE NO. 05-0632**
Appeal from dismissal
Classification: Custodian
Department: Department of General Services

Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

- (1) MARCIE CHURCO, CASE NO. 04-2347P**
Appeal from rejection during probation
Classification: Office Assistant (Typing)
Department: California Unemployment Insurance Appeals Board
- (2) STANLEY ELCOCK, CASE NO. 05-0845P**
Appeal from dismissal of appeal for lack of jurisdiction
Classification: Associate Transportation Engineer, Caltrans
Department: Department of Transportation
- (3) GERALD RAX, CASE NO. 04-2380P**
Appeal from ten percent reduction in salary for ten months
Classification: Employment Program Representative
Department: Employment Development Department

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

(1) PATRICK BRASS, CASE NO. 04-1952A

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Proposed decision rejected July 26, 2005

Transcript prepared

Pending oral argument November 1-2, 2005, San Diego

(2) LINDA DEOS, CASE NO. 05-0434A

Appeal from dismissal

Classification: Staff Counsel III (Specialist)

Department: Employment Development Department

Proposed decision rejected August 30, 2005

Transcript prepared

Pending oral argument December 6-7, 2005, San Francisco

(3) GARY GARFINKEL, CASE NO. 98-3128RBA

Appeal for determination of back salary, benefits and interest

Classification: Deputy Attorney General IV

Department: Department of Justice

Proposed decision rejected July 13, 2005

Transcript prepared

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Pending oral argument November 1-2, 2005, San Diego

(4) MINAS MAROKI, CASE NO. 04- 2700A

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections

Proposed decision rejected August 9, 2005

Transcript prepared

Pending oral argument November 1-2, 2005, San Diego

October 18, 2005

(5) KIM RITTENHOUSE, CASE Nos. 03-3541A & 03-3542E

Appeal from denial of reasonable accommodation
and from constructive medical termination

Classification: Office Technician (General)

Department: Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Pending oral argument December 6-7, 2005, San Francisco

14. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

(1) RUDY ARZATE-RODRIGUEZ, CASE NO. 05-0423

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; omitted pertinent information, arrest/conviction record and negative law enforcement contacts.

(2) BRANDON AUSTIN, CASE NO. 05-0420

Classification: California Highway Patrol Cadet

Department: California Highway Patrol

Issue: Suitability; furnishing inaccurate information and failing to meet legal obligations.

- (3) **CHRISTOPHER COOPER, CASE NO. 05-0419**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information and had a negative employment record.
- (4) **EUGENE CURTIS, CASE NO. 05-0412**
Classification: Medical Technical Assistant
Department: Corrections
Issue: Suitability; omitted pertinent information and furnished inaccurate information.
- (5) **BRENDA DANIEL, CASE NO. 05-0591**
Classification: Medical Technical Assistant
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information and had a negative employment record.
- (6) **NICOLIA FLEMING, CASE NO. 05-0418**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and had a negative employment record.
- (7) **BURKE GILLIS, CASE NO. 05-0271**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and furnished inaccurate information.
- (8) **OSWALDO GRADILLAS, CASE NO. 05-0409**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability and a negative employment record.
- (9) **CECILIA HARTJE, CASE NO. 05-0689**
Classification: Medical Technical Assistant
Department: Corrections
Issue: Suitability; omitted pertinent information and furnished inaccurate information.
- (10) **JENNIFER HERNANDEZ, CASE NO. 05-0421**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; admitted history of non-prosecuted shoplifting over the course of a two-year span ending in 1998.

- (11) **JADI HOWARD, CASE NO. 05-0506**
Classification: Youth Correctional Counselor
Department: Youth Authority
Issue: Suitability; omitted pertinent information, had negative law enforcement contacts, a negative driving record and failure to comply with legal obligations.
- (12) **CHARLENE JEFFERSON, CASE NO. 05-0363**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability and failing to meet legal obligations.
- (13) **JOSH KAPPL, CASE NO. 05-0408**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnished inaccurate information and had negative driving record.
- (14) **DENNIS KROMANN, CASE NO. 05-0399**
Classification: Medical Technical Assistant
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information and had a negative employment record.
- (15) **DAVID LIN, CASE NO. 05-0414**
Classification: CHP Cadet
Department: California Highway Patrol
Issue: Suitability; furnished inaccurate information, omitted pertinent information and had a negative employment record.
- (16) **RHONDA MARTINHO, CASE NO. 04-1246**
Classification: Medical Technical Assistant (CF)
Department: Corrections
Issue: Suitability; provided inaccurate and omitted pertinent information.
- (17) **PERRY MOORE, CASE NO. 05-0568**
Classification: Youth Correctional Officer
Department: Corrections
Issue: Suitability; non-disclosure of information.
- (18) **MITCHELL ROMERO, CASE NO. 05-1162**
Classification: Medical Technical Assistant (MTA)
Department: Corrections
Issue: Suitability; Negative employment record and furnished inaccurate information.

(19) DEREK LEE VAUGHN, CASE NO. 05-0272

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; furnished inaccurate information, had negative law enforcement contacts, and negative employment record.

(20) AMBER YTURRIAGA, CASE NO. 05-0285

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; Omitted pertinent information; Negative employment record.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

(1) SANTA ARRIAGA, CASE NO. 04-2643

Classification: Correctional Officer

Department: Corrections

Issue: The charging party requests charges be filed against the charged party for violations of various subsections of Government Code section 19572.

(2) ARVIND BALU, CASE NO. 04-1425

Classification: Civilly committed offender at ASH

Department: Mental Health

Issue: The charging party requests charges be filed against the charged parties for violations of various subsections of Government Code section 19572.

(3) BYRON DARRINGTON, CASE NO. 04-2585

Classification: Battalion Chief

Department: Forestry and Fire Protection

Issue: The charging party requests to file charges against a supervisor at the CDF

(4) TERRY AND HOLLY FERNANDES, CASE NO. 03-1835

Classification: N/A – Members of the Public

Department: Corrections

Issue: The charging parties request charges be filed against the charged parties for violations of various subsections of Government Code section 19572.

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- (5) **KEVIN GIBBONS, CASE NO. 04-0964**
Classification: Correctional Sergeant
Department: Corrections
Issue: The charging party request charges be filed against the charged parties for violation of various sections of Government Code 19572.
- (6) **SUSAN HEFFERON, CASE NO. 04-1331**
Classification: Correctional Officer
Department: Corrections
Issue: The charging party requests charges be filed against the charged party for violation of various sections of Government Code 19572.
- (7) **WILLIAM JOHNSON, CASE NO. 04-0638**
Classification: Parole Agent II, Adult Parole (Specialist)
Department: Corrections
Issue: The charging party requests charges be filed against the charged party for violations of various subsections of Government Code section 19572.
- (8) **LEE R. ROGERS, CASE NOS. 04-0647 & 04-1344**
Classification: Correctional Officer
Department: Corrections
Issue: The charging party requests charges be filed against the charged party for violations of various subsections of Government Code section 19572.
- (9) **KURT THOMAS, CASE NO. 04-0527**
Classification: Correctional Officer
Department: Corrections
Issue: The charging party requests charges be filed against the charged parties for violations of various subsections of Government Code section 19572.

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

6. PATRICK BARBER, CASE NO. 04-0174A

Appeal from dismissal. Youth Correctional Officer. Department of Youth Authority. (Oral Argument held July 13, 2005)

7. JON CHASE, CASE NO. 04-0392A

Appeal from 30 working days suspension. Associate Management Auditor. Employment Development Department. (Oral Argument held August 9, 2005)

8. HEARING – PERSONAL SERVICES CONTRACT #05-07

Appeal of Department of General Services (DGS) from the Executive Officer's April 22, 2005 Disapproval of a Proposed Three-Year Cost-Savings Contract with American Building Maintenance janitorial Services for Custodial Services for the Franchise Tax Board. (Hearing held August 9, 2005)

9. JOSEPH MARTINEZ, CASE NO. 04-2690A

Appeal from dismissal. Hospital Police Officer. Department of Mental Health.
(Oral Argument held August 30, 2005)

10. ANDREW RUIZ, CASE NO. 04-2391A

Appeal from dismissal. Correctional Lieutenant. Department of Corrections.
(Oral Argument held August 30, 2005)

11. MARK SAMORA, CASE NO. 04-3041A

Appeal from dismissal. Instructional Technology Consultant. California State University, Los Angeles. (Oral Argument held October 3, 2005)

12. HEARING – PERSONAL SERVICES CONTRACT #05-04

Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE) from the Executive Officer's April 1, 2005 Approval of a Contract for Legal Services between the Secretary of State's Office and Renne & Holtzman Public Law Group, LLP (Oral Argument held on October 3, 2005)

13. HEARING

Proposed Revisions to Whistleblower Retaliation Complaint Regulations
(Title 2, C.C.R., section 56 et. seq.) (Hearings held on September 20, 2005 and October 3, 2005)

14. HEARING

Proposed Revisions to Discovery Regulations in Evidentiary Hearings Regulations
(Title 2, C.C.R., section 57 et. seq.) (Hearings held on September 20, 2005 and October 3, 2005)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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(Cal. 10/18/05;)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

The status of major legislation being followed for impact on Board programs and the general administration of the State Civil Service Merit System is detailed in the attached report.

Any legislative action that takes place after the printing of this report, which requires discussion with the Board, will be covered during the Board meeting.

Please contact me directly should you have any questions or comments regarding this report. I can be reached at (916) 653-0453.

Sherry Hicks
Director of Legislation

Attachment

**STATE PERSONNEL BOARD
LEGISLATIVE TRACKING
REPORT
2005-06 SESSION**

**Status as of
September 30, 2005**



ASSEMBLY/SENATE BILLS
(Tracking)

BILL/ AUTHOR	BOARD POSITION	SUBJECT	STATUS OF BILL
AB 38 (Tran)	OPOSE	AB 38 proposes suspending the salaries of specific state board and commission members for the fiscal years 2005 through 2009. The State Personnel Board is one of those boards that would not receive salaries for those fiscal years.	Assembly Business and Professions Committee. Died in Committee.
AB 47 (Cohn)	NEUTRAL	This bill would prohibit, except under specified circumstances, the Department of General Services from authorizing the Department of Corrections to enter into contracts for medical care services without seeking competitive bids for those contracts	Vetoed by Governor
AB 94 (Haynes)	NEUTRAL	Among other things, this bill would require various state agencies to prepare and provide a report to the Senate Committee on Rules, the Assembly Committee on Rules, and to each member of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on the financial activities of the agency, board, commission, department, or office for the 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 fiscal years no later than January 15, 2006, and for each subsequent fiscal year by January 15 of the following year.	Assembly Business and Professions Committee. Failed passage. 2-year Bill.

AB 124 (Dymally)	SUPPORT	This bill would repeal requirements to annually establish employment goals and timetables based on race or gender that were invalidated by the California Court of Appeal in <i>Connerly v. State Personnel Board</i> , and re-title Chapter 12 of Part 2, Division 5, Title 2 of the Government Code from "Affirmative Action Program" to "State Equal Employment Opportunity Program". In addition, it would strengthen equal employment opportunity requirements.	Enrolled, to Governor.
AB 194 (Dymally)		The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend. This bill would remove the requirement that the legislative body be allowed to cure or correct an alleged violation prior to commencement of a legal action and would remove provisions that preclude specified actions from being determined to be null and void.	Assembly Committee on Local Government. Hearing cancelled at the request of author. (2-Year Bill).
AB 195 (Dymally)	NO POSITION	This bill would expand the remedies available to individuals who file discrimination complaints with the State Personnel Board by authorizing the State Personnel Board to award reasonable attorney's fees and costs, including expert witness fees.	Vetoed by Governor
AB 219 (Nakanishi)		This bill would require all state departments, commissions, or other agencies to submit an electronic copy of each publication issued to the State Library. It would require the State Library to create and maintain a Web site that includes a monthly or quarterly list of each state publication issued during the immediately preceding month or quarter and that provides access to an electronic copy of each publication. It would provide that if a copy of a state publication is available on the State Library Web site, it shall be deemed distributed in compliance with specified redistribution requirements.	Senate Appropriations Committee. Held under submission.

AB 271 (BLAKESLEE)	OPPOSE	This bill would require that any person appointed to a scientist class in state service possess a four-year degree in a scientific discipline from an accredited university.	Assembly Inactive File. 2-year bill.
AB 277 (Mountjoy)	SUPPORT	This bill would authorize the Board of Administration of the Public Employees' Retirement System to hold closed sessions when considering matters relating to the development of rates and competitive strategy for long-term care insurance plans.	Chaptered. Chapter #288, Statutes of 2005
AB 297 (Yee)	SUPPORT	This bill would specify that a current patient of a facility operated by the state Department of Mental Health (DMH) cannot file charges against a state employee, but rather must use the grievance processes of the DMH.	Chaptered. Chapter #217, Statutes of 2005
AB 529 (Goldberg)	NEUTRAL	This bill would amend existing law to permit CSU employees to request hearings by the State Personnel Board (SPB) when CSU trustees: (1) fail to comply with their obligation to apply for disability retirement on behalf of an employee as required under existing law and (2) deny a request for reasonable accommodation.	Vetoed by Governor
AB 775 (Yee)	SUPPORT	This bill would prohibit any state or local governmental agency, or any public or private agency, organization, entity, or program that receives state funding, from using any child, or permitting any child to be used, as an interpreter, as defined, in any hospital, clinic, or physician office in the context of diagnosis and treatment, except as specified. The bill would require each such agency, organization, entity, or program that receives state funding to have in place, and available for inspection, an established procedure for providing competent interpretation services that does not involve the use of children, as defined, in this manner. This bill contains other related provisions and other existing laws.	Senate Judiciary Committee. Failed passage. Reconsideration granted. Hearing cancelled at the request of the author.

AB 836 (Huff)	NEUTRAL	Existing law requires every state agency and court for which an appropriation is made to submit to the Department of Finance for approval, a complete and detailed budget setting forth all proposed expenditures and estimated revenues for the ensuring fiscal year. This bill would require that these budgets utilize a zero-based budget method, as defined.	Assembly Budget Committee 2-year Bill.
AB 884 (Baca)	NEUTRAL	This bill would prohibit a state agency, including the California State University, from employing a primary care physician as an independent contractor when there is an unfilled, full-time primary care physician position available within the state agency, unless the state agency is unable to do so after a good faith effort.	Senate Appropriations Committee. Held under submission.
AB 1066 (Horton, Jerome)	NEUTRAL	This bill would amend existing law to provide that a state agency: (1) may not pay a contractor under a cost-savings contract until the State Personnel Board (SPB) had first approved that contract and all administrative appeals have been exhausted or waived; (2) may not seek to enter into a cost-savings contract with a contractor if SPB disapproved a prior contract with that same contractor for the same services within the preceding 12 months; and (3) must give 10 days prior notice to Bargaining Unit 12 of any contract the agency intends to enter into that may affect that bargaining unit.	Vetoed by the Governor
SB 165 (Speier)	NEUTRAL	This bill would create the Office of the Special Counsel (OSC) as a separate branch of the State Personnel Board (Board), to protect state employees and applicants for state employment who have been retaliated against as a result of their having made protected disclosures under the Whistleblower Protection Act (Government Code section 8547 <i>et seq.</i>).	Senate Appropriations Committee. (Suspense file. 2-year bill.)
SB 606 (Kehoe)	OPPOSE	This bill would authorize that the State Personnel Board may create a classification for full-time lifeguards that does not require completion of the basic training course established by the Commission on Peace Officers Standards and Training.	Senate Appropriations Committee (Suspense File. 2-yr bill)

SB 737 (Romero)		Among other things, upon request of the Governor, the State Personnel Board (SPB) could develop and implement cost-effective recruitment and merit-based selection processes to establish lists of qualified applicants for consideration by the Governor in filling any of the 36 identified positions	Chaptered. Chapter #10, Statutes of 2005.
SB 737 (Romero)		Among other things, upon request of the Governor, the State Personnel Board (SPB) could develop and implement cost-effective recruitment and merit-based selection processes to establish lists of qualified applicants for consideration by the Governor in filling any of the 36 identified positions	Chaptered. Chapter #10, Statutes of 2005.
SB 1095 (Chesbro)	NEUTRAL	<p>This bill would amend existing law by allowing the California Conservation Corps (CCC) exceptions to the current requirements relating to 1) procurement or management of motor vehicle fleets; 2) hire, lease, lease-purchase of property or facilities; 3) limited-term appointments; and 4) hiring-above-minimum salary adjustments.</p> <p>This analysis is limited to those provisions that directly impact the State Personnel Board (SPB). Specifically, the bill would allow CCC to extend limited-term (LT) appointments, beyond the current 2 years, to a maximum of 4 years, when authorized by SPB.</p>	Assembly Appropriations Committee. Suspense file.

STATE PERSONNEL BOARD

NON-HEARING CALENDAR

RE: BOARD DATE OCTOBER 18, 2005

(Cal. 10/18/05;)

MEMO TO : STATE PERSONNEL BOARD
FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division
SUBJECT : Non-Hearing Calendar Items for Board Action

NONE PRESENTED